



Janet Napolitano
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Stephen A. Owens
Director

HAZARDOUS AIR POLLUTANTS RULE STAKEHOLDER MEETING SUMMARY

DATE: September 14, 2005
TIME: 9:30 a.m.
LOCATION: ASU Downtown Center, A 225-228
502 E. Monroe Street, Phoenix, Arizona

PUBLIC ATTENDEES

(See attached)

ADEQ STAFF

Nancy Wrona
Diane Arnst
Steve Burr
Ira Domskey
Kevin Force
David Lillie
Jon Marting
Steve Peplau

ADDITIONAL ATTENDEES

Kelly Cairo, Gunn Communications
Pat Clymer, Weston Solutions
Kevin Eldridge, Weston Solutions
Theresa Gunn, Gunn Communications
Gary Lage, Weston Solutions
Steve Mauch, Weston Solutions

AGENDA

- Opening Remarks
- Introductions and Meeting Overview
- Presentation of Listing of SIC Code Categories Potentially Subject to HAPRACT
- Stakeholder Discussion
- Discussion of Statutory Authority to Adopt De Minimis Levels for Federal HAPs
- Additional Stakeholder Comments
- Next Steps
- Adjourn

OPENING REMARKS

Nancy Wrona thanked stakeholders for attending and for their participation in the Hazardous Air Pollutants (HAPs) rulemaking process. Wrona stated that several technical reports and letters have been sent to the agency by stakeholders. These documents will be made available to all participants at the next meeting. She noted the agency's interest in stakeholder input at this and future HAPs rule meetings.

INTRODUCTIONS AND MEETING OVERVIEW

Northern Regional Office
1515 East Cedar Avenue • Suite F • Flagstaff, AZ 86004
(928) 779-0313

Southern Regional Office
400 West Congress Street • Suite 433 • Tucson, AZ 85701
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Meeting facilitator Theresa Gunn reviewed the meeting objectives, noting that issue identification remains appropriate at this stage of the process. She explained that both written comments and questions sent to the agency, and all issues submitted on index cards at these meetings will be recorded and considered by the agency. Gunn reviewed guidelines for holding a good meeting and called for introductions of all those present.

PRESENTATION OF DETERMINATION OF LISTING OF SIC CODE CATEGORIES POTENTIALLY SUBJECT TO HAPRACT AND STAKEHOLDER DISCUSSION

Steve Burr provided a brief HAPs rule overview including the sources subject to the program, methodology, and the purpose behind the process. The presentation is available on the ADEQ website at www.azdeq.gov/function/laws/draft.html#haps. He noted that the methodology consists of a three-step process including:

- Identifying ambient air concentrations (AACs) at which adverse effects to human health from HAPs will or could occur;
- Modeling appropriate emissions from sources to determine concentrations; and,
- Comparing these modeled concentrations to AACs.

Steve Mauch, Weston Solutions, presented *Source Category Listing for the Arizona HAPRACT Rule*, which is available on the ADEQ website. Highlights included:

- The modeling approach uses actual data where possible.
- The most recent version of the USEPA SCREEN3 model was used, with defaults selected for many options.
- Actual data were used where available for building information, followed by the use of aerial photos and default estimates as necessary.
- HAPs compounds are modeled as listed in EPA's Toxics Release Inventory (TRI) and the Arizona HAP inventory.
- The potential to emit (PTE) data were used where possible. When data were available from multiple sources, the maximum value was selected.
- Example facilities were reviewed. Modeling occurred at equal dispersion rates and was converted to 1-hour impacts and annual averages. Information may be prorated based on identified operating hours and other known operating restraints.

Gunn asked stakeholders to identify issues and concerns. (Issues listed in italics are verbatim from cards submitted by the stakeholders.) Stakeholder questions and comments included:

- *Caps don't necessarily obstruct air flow.* There are different types of stack caps. The presumption that caps obstruct air is an error. A rain cap prevents rain from coming in, but doesn't prevent the flow of air. Butterfly caps open and close. *Stacks are not capped thus preventing flow. Vertical obstructed does not mean capped. Flow may be diverted but not eliminated.* **Response:** The data used is supplied to state and county programs as part of a permit by the source and is public record. The database allows for five codes for type of obstruction. A facility may select only one response, such as "w" for a vertical obstruction, for each stack. A vertical obstruction calls for using .001m velocity; whereas, "unobstructed" stack would use actual velocity. **Comment:** I would have checked off cap on this type of question, though there would not be an obstruction. However, this would be calculated as an obstructed stack.

- I am concerned about a facility with control devices used as a precedent regarding a new or modified facility coming in without these controls.
- There are criteria under §426.05 for listing a source. Where are these addressed?
Response: At the first pass-through on the list, we did not address these issues. We would like to hear comments on how to address these issues. Follow up information can address specifics by location.
- Who decided the SIC codes to be used? **Response:** The TRI or emission inventory database were used, with the primary SIC code selected.
- Where does the issue of adverse environmental effects get addressed? I would begin with the U.S. Game and Fish list of endangered and sensitive species as a start to addressing this issue.
- Did you include the EPA Urban Toxics Program to add source categories? **Response:** No, this was not among the sources of data.
- What about looking at *asphalt batch plants*, which emit naphthalene? **Response:** These sources did not have HAPs data.
- If the SIC code is unclassified, does that mean the source doesn't have to put on controls? *SIC 9999 inappropriate to use in this.* **Response:** The SIC code is not necessarily considered acceptable. A new source in Arizona will be reviewed.
- Some source categories don't appear on the ADEQ list. Were some prescreened and excluded? **Response:** Yes, using Arizona emissions data and TRI, we ran a query to identify all sources on the list according to tonnage. Also, Pima County is reviewing additional SIC codes to provide to ADEQ.
- *Were mobile source emissions excluded from the data relied upon?* **Response:** No.
- When TRI data are used, how are compounds addressed? **Response:** We used the best level of information available.
- Is the TRI data all stack data, or does it also include fugitive? **Response:** Fugitive was also included on a total basis. We did not have specific data on fugitive sources. Volume sources are not identified as such.
- I believe the TRI data does distinguish between stack and fugitive. **Response:** We queried for total emissions, however, we will revisit this issue. Also, inventories did show more specific stack and emissions data.
- *The disparity between acute and chronic results calls into question the validity of assumptions used. How can this be explained?* **Response:** Air quality guidelines for acute and chronic differ due to the type of exposure.
- *Why were major HAP sources modeled?* **Response:** These were used to evaluate whether a SIC code should be included.
- Is annual emissions data adequate to determine annual and acute emissions? **Response:** We used the data provided. If only annual data were available, the data was prorated.
- Inventories I am familiar with don't ask for short-term emissions. This could be a problem. **Response:** We requested hourly PTE from the state and county inventories. We then used TRI data and prorated it where applicable. This may result in underestimating short-term impact.
- What is the rationale for using Maricopa County sources to create a source category list for ADEQ? **Response:** This program is aimed at new sources and modifications to existing sources. The rule will apply to facilities in Maricopa County and throughout Arizona.

- *How can a facility with twice the emissions of the same HAP as another not be required to be listed? Marlamu Ltm. Response:* The statute requires us to evaluate existing sources to determine how to address future sources. We use a worse case scenario for a new source, not a controlled source.
- *How do we obtain access to the technical support documents for each source category determination? (To review for accuracy, completeness, etc.) We would like to reproduce data to see if we come up with the same information. Response:* The data and assumptions used are listed in the table on the modeling analysis spreadsheet. The only information that would be missing in order to reproduce the calculations would be the data from the county. This is public information and is available.
- *Did ADEQ provide identified sources with the opportunity to verify the accuracy of the modeling data used? If not, why not to ensure accuracy? ADEQ is interested in any changes in these data and reasons why the underlying data are in error.*
- *Quality of data is bad/flawed. Example is Penn Racquet Sports.*
- *Veracity of SIC code determination? (ex Ltm Marble.) ADEQ is interested in suggestions to improve the accuracy of the application of SIC codes.*
- *Are counties authorized to expand list of source categories under A.R.S. §49-112? Response:* It is our opinion that this is correct.
- *I am concerned about the use of SIC codes. Recommend source categories be in rule similar to EPA area source approach. Describe affected facility with 1 ton per year (tpy) PTE not SIC.*
- *Will RACT for source category address HAP above AAC only? Response:* The control technology should address all HAPs.
- *Where TRI data is used, which specific compound was used to make comparison with acute and chronic concentrations (Ni compd – which compounds)? Response:* We used the best data available, and did not specifically use start up or shut down data. Acute values were never used as a basis for listing a source. Cancer concerns are related to a chronic exposure.
- *Phoenix Brickyard – Why wasn't TRI data used? Response:* We had specific modeling information from ADEQ from 2004. These values were higher than those shown under the TRI.
- *Include NAICS codes with SIC codes in each category listed. Response:* We can consider this.
- *We should do some evening meetings so the affected public can participate and attend.*
- *What other states have enacted or adopted a state HAPs program?*
- *The agency should reevaluate sources for acute exposure.*
- *If a source category is not listed currently, are there other conditions, triggers that will bring it into program in the future? Response:* Yes. We will periodically review the rule, in part due to new information about toxicity of chemicals and sources of emissions. Also, if a new source category moves into the state, we will review that source category to determine if it should be included on the list.

Gunn stated sources that feel the model does not accurately reflect their emissions, including changing the parameters, should follow up with Steve Burr. Gunn asked the group for perspectives on the overall process. One stakeholder responded, saying that the process is close; however, it is the longstanding issues which need to be addressed.

DISCUSSION OF STATUTORY AUTHORITY TO ADOPT DE MINIMIS LEVELS FOR FEDERAL HAPS AND STAKEHOLDER COMMENTS

Joe Mikitish, Assistant Attorney General, presented *De Minimis Determinations – Statutory Overview*, which is available on the ADEQ website. Highlights from the presentation, which included background information reviewing A.R.S. §49-426.06 (B), included:

- “Construction” means any physical change in a source or change in method of operation that would result in a change in actual emissions.
- “Modification” means a change that increases the actual emissions by more than any relevant de minimis or which results in the emission of any regulated pollutant not previously admitted by more than such de minimis.
- EPA’s failure to establish de minimis does not set the values at zero. Rather, ADEQ is directed to consider EPA guidelines. Since there are not any guidelines, this criterion has been met.
- Counties are directed to implement EPA or state rules under §429.06 (B). Counties must also utilize statutory definition of modification which requires establishment of de minimis amounts.

Stakeholder questions and comments included:

- What about de minimis for a new source? **Response:** The only purpose for determining and using de minimis values is for modifications.
- I agree there is a need to infer the intent of de minimis in statute. §429.06 (C) contains HAPRACT information, and refers only to HAPs estimated by EPA or ADEQ. De minimis should consider new sources and modifications. **Response:** We will look into this further. However, we still need to determine de minimis for this program and ADEQ has authority to proceed in establishing de minimis amounts for modifications.

NEXT STEPS

Gunn reviewed schedule changes. A risk management analysis meeting has been added to the schedule in response to stakeholder concerns. This meeting will be conducted during the next scheduled meeting time on September 28, 9:30 a.m. at ASU Downtown Center, in Building A. Related materials will be available prior to the meeting at the ADEQ website:

<http://www.azdeq.gov/function/laws/draft.html#haps>.

Gunn noted that those with suggestions for alternatives should prepare information for discussion at the October 26 full-day session, which will be used to review the strawman rule.

Stakeholder questions and comments included:

- I would like to see a requirement for public comment on RMAs for sources that are subject to this. Also, this should be an appealable agency action.
- There isn’t much time for us to meet with our groups from the time the strawman is released on October 12 to the meeting on October 26. Can we extend this time period? **Response:** We have extended the schedule twice and cannot do so again. The strawman should look quite similar to everything we have reviewed at stakeholder meetings, and should not hold many surprises.

- Because of the controversial nature of an RMA, I think that the agency should consider extending that meeting into an evening session to allow for the public to attend and comment.

ACTION ITEMS

- Revisit this issue of TRI stack and fugitive data.
- Sources to follow up with Steve Burr if they feel the model should be changed regarding the parameters for source categories.
- ADEQ to consider including NAICS codes with SIC codes in each category listed.
- ADEQ to consider de minimis for both new sources and modifications.

HAZARDOUS AIR POLLUTANTS RULE
***DRAFT* STAKEHOLDER MEETING SUMMARY**

September 14, 2005

PUBLIC ATTENDEES

Bert Acken, Lewis & Roca
Sean Aldrich, Intel Corporation
Abraham Alfatesh, PC Wastewater
Darcy Anderson, Kleinfelder
Christopher Andrews, Andrews
Environmental Mgmt.
Sandy Bahr, Sierra Club Grand Canyon
Chapter
Ed Barry, Chemical Lime
Ann Becker, Pinnacle West Capital Corp
Chuck Bischoff, Jordan Bischoff McGuire
& Hiser
Rusty Bowers, Arizona Rock Products
Assoc.
Steve Branoff, ENVIRON
Lisa Brautigam, Fennemore Craig PC
Steve Brittle, Don't Waste Arizona, Inc.
Al Brown, ASU Environmental Technical
Management
Jo Crumbaker, Maricopa County Air
Quality Dept.
Susan Culp, Arizona League of
Conservation Voters
Stan Curry, Gallagher & Kennedy
Scott Dibiase, Pinal Air Quality
Kara Downey, Arizona Electric Power
Cooperative
Jerry Dumas, Raytheon Missile Systems
Ken Evans, Phelps Dodge Corporation
Tom Frigon, Brush Ceramic Products
Don Gabrielson, Pinal Air Quality
Joe Gibbs, City of Phoenix
Dan Graddle, APS-Cholla
Richard Grimaldi, Pima County DEQ
Troy Hacker, Thermo Fluids Inc.
Larry Hawke, Pima County DEQ
Sharyn M. Holden, Raytheon Missile
Systems
Gaye Knight, City of Phoenix

Johanna M. Kuspert, Maricopa County Air
Quality Dept.
Rollie Leeman, Intel
David Lima, Hexcel
Brett Lindsay, Phoenix Cement Co.
Jeremy A. Lite, Quarles & Brady Streich
Lang LLP
Eran Mahrer, APS/PNW
Bob Mallory, KB Homes Tucson Div.
C. V. Mathai, APS
Bob Mauer, KB Homes
Jenn McCall, Freescale Semiconductor
Amanda McGennis, Arizona Chapter
Associated General Contractors
Alison McGregor, Squire, Sanders
Frank Mendola, CEMEX
Joe Mikitish, Attorney General's Office
Jim Mikula, APS
Brian O'Donnell, Southwest Gas
Krishna Parameswaran, ASARCO LLC
Mary Parks, ESI Global
Todd Rallison, Intel Corporation
John Scheatzle, Brush Ceramic Products
Rod Seagle, SRP
Kathleen Sommer, ADOT
Barbara Sprungle, ORS
Kathleen Stewart, U.S. EPA Region 9
Steve Trussell Arizona Rock Products
Assoc.
James Tunnell, AZ Assoc. of Industries
Kathleen Whalen, Arizona League of
Conservation Voters
Alan Woodard, Kinder Morgan
Jeff Yockey, Tucson Electric Power
Linda Young, Intel
Jenny Zhao, City of Phoenix